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Paper No. 13

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JUN 22 2005

OFFICE OF PETITIONS

In re Application of :
Mike Sage :
Application No. 09/736,649 : DECISION ON
Filed: December 13, 2000 : PETITION
Title: SYSTEM AND METHOD FOR :
IMPLEMENTING A WIRELESS :
NETWORK IN A SERVICE CENTER :
FOR GENERATING A REPAIR ORDER :

This is a decision on the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)," filed March 21, 2005. Therein, applicant requests that the application be revived pursuant to § 1.137(a) based on unavoidable delay, and if not, the application be revived pursuant to § 1.137(b) based on unintentional delay. Given the assertions made on petition, and the evidence of record, the petition is being treated as a petition under § 1.181 to withdraw the holding of abandonment.

The petition under § 1.181 is GRANTED.

Consideration of the petition under 37 CFR 1.137(a) is unnecessary. Accordingly, the petition fee of \$250 set forth in 37 CFR 1.17(1) for the present petition under 37 CFR 1.137(a) is being refunded to petitioner's Deposit Account No. 50-2689.

The above-identified application became abandoned for failure to timely reply to the non-final Office action mailed August 27, 2003. This restriction requirement set a one (1) month shortened statutory period for reply, with extensions of time obtainable under § 1.136(a). No extensions of time having been obtained and no reply filed, the above-identified application

became abandoned on September 28, 2003. A Notice of Abandonment was mailed on April 6, 2004.

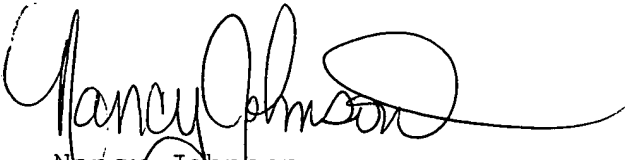
Petitioner maintains that the delay in replying to the Restriction Requirement dated August 27, 2003, was unavoidable because applicant Mike Sage never received the Office action. Petitioner asserts that applicant Sage discovered the abandonment on February 8, 2005. On or about March 17, 2005, the examiner faxed a copy of the restriction requirement to applicant Sage's new representative.

The record of the application overcomes the presumption of proper mailing of the Office action to the correspondence address of record. The record shows that although the correspondence address (and power of attorney) was changed more than a year earlier, the address information was entered incorrectly. Consequently, all subsequent Office mailings were sent to an inaccurate address and returned as undeliverable by the post office.

In view thereof, the petition is GRANTED, and the holding of abandonment is hereby WITHDRAWN.

The application file is being forwarded to Technology Center 3627 for consideration of the response to the restriction requirement, which accompanied the filing of the instant petition.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.


Nancy Johnson
Senior Petitions Attorney
Office of Petitions